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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,026	10/23/2003	Jason Wolter Klein	30163.24681	2378

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BROUSE MCDOWELL LPA  
388 SOUTH MAIN STREET  
SUITE 500  
AKRON, OH 44311

EXAMINER
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STAICOVICI, STEFAN

ART UNIT	PAPER NUMBER
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1732

DATE MAILED: 11/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/693,026

Applicant(s)

KLEIN ET AL.

Examiner

Stefan Staicovici

Art Unit

1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 and 11-26 is/are pending in the application.
- 4a) Of the above claim(s) 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11, 13-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicants' amendment filed September 12, 2006 has been entered. Claims 1-9 and 11-16 are pending in the instant application.

### ***Election/Restrictions***

2. Applicant's election without traverse of Group I, claims 1-9 and 13-16 is acknowledged. Claim 12 remains withdrawn from consideration.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Sloniewsky *et al.* (US Patent No. 4,662,863).

Sloniewsky *et al.* ('863) teach the claimed process for making a dual powered belt including, providing a first and a second planar mold half having first and second teeth forming cavities (30a, 30b), forming a belt slab including a first fabric (24a) (tooth forming fabric), a cord layer (23), an elastomeric layer (26) and a second fabric (24b) (tooth forming fabric), placing said belt slab between said first and second mold halves and forcing said belt slab such that said

Art Unit: 1732

first and second fabric is forced into said first and second cavities by said elastomeric layer to form said dual powered belt having a fabric layer covering first and second teeth (see col. 7, lines 17-64 and, Figures 3-4).

Regarding claim 6, Sloniewsky *et al.* ('863) teach forming the fabric/rubber preform on a drum-shaped mold, hence in a cylinder shape (see col. 7, lines 20-25).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sloniewsky *et al.* (US Patent No. 4,662,863) in view of Wood (US Patent No. 5,733,399).

Sloniewsky *et al.* ('863) teach the basic claimed process as described above.

Regarding claims 3-5, although Sloniewsky *et al.* ('863) teach forcing said elastomeric (rubber) material into said first and second cavities such that said first and second fabric is pushed into said cavities by the flowing elastomeric material, Sloniewsky *et al.* ('863) do not teach a barrier layer positioned adjacent to said first fabric layer and elastomeric material flowing through said barrier layer and said cord layer. Wood ('399) teaches a process for making a belt including providing a barrier layer through which elastomeric material flows such that said flowing elastomeric material forces a fabric layer into mold cavities to shape teeth of said belt (see col. 6, line 63 through col. 7, line 44). Therefore, it would have been obvious for one of

Art Unit: 1732

ordinary skill in the art to provide the barrier layer of Wood ('399) in the dual power belt formed by the process of Sloniewsky *et al.* ('863) such that elastomeric material flows through said barrier layer and a corresponding cord layer because, Wood ('399) teaches that such a barrier layer provides for improved pressure application, hence providing for an improved product.

7. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sloniewsky *et al.* (US Patent No. 4,662,863) in view of Takano *et al.* (US Patent No. 4,510,113).

Sloniewsky *et al.* ('863) teach the basic claimed process as described above.

Regarding claims 7 and 8, Sloniewsky *et al.* ('863) do not teach an edge channel for accommodating excess elastomeric (rubber) material. Takano *et al.* ('113) teach a process for making a dual powered belt including, providing a first and a second mold half (18, 25) having first and second teeth forming cavities and an edge channel (71) for accommodating excess elastomeric material (see col. 6, lines 10-15). Therefore, it would have been obvious for one of ordinary skill in the art to provide an edge channel for accommodating excess elastomeric material as taught by Takano *et al.* ('113) to the mold in the process of Sloniewsky *et al.* ('863) because of known advantages such as reduced costs by eliminating a finishing operation, hence providing for an improved process.

8. Claims 7, 9, 11 and 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sloniewsky *et al.* (US Patent No. 4,662,863) in view of Campbell *et al.* (US Patent No. 4,540,357).

Sloniewsky *et al.* ('863) teach the basic claimed process as described above.

Regarding claims 7, 9, 11 and 13, Sloniewsky *et al.* ('863) do not teach a waste pocket for accommodating excess elastomeric (rubber) material. Campbell *et al.* ('357) teach a process

for making a belt including, providing a mold having nub cavities (23) for accommodating excess elastomeric material (see col. 5, lines 48-64). Therefore, it would have been obvious for one of ordinary skill in the art to provide the nub cavities taught by Campbell *et al.* ('357) to the mold in the process of Sloniewsky *et al.* ('863) in order to accommodate excess elastomeric material because of known advantages such as reduced costs by eliminating a finishing operation, hence providing for an improved process.

In regard to claims 14-16, although the process of Sloniewsky *et al.* ('863) in view of Campbell *et al.* ('357) does not teach a finishing (deflashing) operation such as, grinding or milling, finishing a molded object is well known. Therefore, it would have been obvious for one of ordinary skill in the art to provide a finishing operation such as, grinding or milling, in the process of Sloniewsky *et al.* ('863) in view of Campbell *et al.* ('357) because of known advantages such improved aesthetics and dimensional tolerances, hence providing for an improved product.

9. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terhune (US Patent No. 3,818,741) in view of Sloniewsky *et al.* (US Patent No. 4,662,863).

Terhune ('741) teaches the basic claimed process of making a belt including, providing a first planar mold half (10) having teeth forming cavities (24) and a second planar mold half, forming a belt slab including a first fabric (S) (tooth forming fabric), a rubber layer (R), a cord layer (32) and a second fabric layer (30) See Figure 2), placing said belt slab between said first and second mold halves and forcing said belt slab such that said first and second fabric is forced into said teeth forming cavities by said elastomeric layer to form said belt having a fabric layer covering said teeth (see col. 2, line 63 through col. 3, line 28).

Regarding claims 1 and 2, Terhune ('741) does not teach that said second mold half includes teeth forming cavities. Sloniewsky *et al.* ('863) teach a process for making a dual powered belt including, providing a first and a second planar mold half having first and second teeth forming cavities (30a, 30b), forming a belt slab including a first fabric (24a) (tooth forming fabric), a cord layer (23), an elastomeric layer (26) and a second fabric (24b) (tooth forming fabric), placing said belt slab between said first and second mold halves and forcing said belt slab such that said first and second fabric is forced into said first and second cavities by said elastomeric layer to form said dual powered belt having a fabric layer covering first and second teeth (see col. 7, lines 17-64 and, Figures 3-4). Therefore, it would have been obvious for one of ordinary skill in the art to provide teeth forming cavities as taught by Sloniewsky *et al.* ('863) in the second mold half in the process of Terhune ('741) because of known advantages that dual powered belt provides such as increased power transmission capabilities, hence providing for an improved product.

10. Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terhune (US Patent No. 3,818,741) in view of Sloniewsky *et al.* (US Patent No. 4,662,863) and in further view of Wood (US Patent No. 5,733,399).

Terhune ('741) in view of Sloniewsky *et al.* ('863) teaches the basic claimed process as described above.

Regarding claims 3-5, although Terhune ('741) teaches forcing said elastomeric (rubber) material into said teeth forming cavities such that said fabric is pushed into said cavities by the flowing elastomeric material, Terhune ('741) in view of Sloniewsky *et al.* ('863) do not teach a barrier layer positioned adjacent to said first fabric layer and elastomeric material flowing

Art Unit: 1732

through said barrier layer and said cord layer. Wood ('399) teaches a process for making a belt including providing a barrier layer through which elastomeric material flows such that said flowing elastomeric material forces a fabric layer into mold cavities to shape teeth of said belt (see col. 6, line 63 through col. 7, line 44). Therefore, it would have been obvious for one of ordinary skill in the art to provide the barrier layer of Wood ('399) in the belt formed by the process of Terhune ('741) in view of Sloniewsky *et al.* ('863) such that elastomeric material flows through said barrier layer and a corresponding cord layer because, Wood ('399) teaches that such a barrier layer provides for improved pressure application, hence providing for an improved product.

11. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terhune (US Patent No. 3,818,741) in view of Sloniewsky *et al.* (US Patent No. 4,662,863) and in further view of Takano *et al.* (US Patent No. 4,510,113).

Terhune ('741) in view of Sloniewsky *et al.* ('863) teaches the basic claimed process as described above.

Regarding claims 7 and 8, Terhune ('741) in view of Sloniewsky *et al.* ('863) do not teach an edge channel for accommodating excess elastomeric (rubber) material. Takano *et al.* ('113) teach a process for making a dual powered belt including, providing a first and a second mold half (18, 25) having first and second teeth forming cavities and an edge channel (71) for accommodating excess elastomeric material (see col. 6, lines 10-15). Therefore, it would have been obvious for one of ordinary skill in the art to provide an edge channel for accommodating excess elastomeric material as taught by Takano *et al.* ('113) to the mold in the process of



Terhune ('741) in view of Sloniewsky *et al.* ('863) because of known advantages such as reduced costs by eliminating a finishing operation, hence providing for an improved process.

12. Claims 7, 9, 11 and 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terhune (US Patent No. 3,818,741) in view of Sloniewsky *et al.* (US Patent No. 4,662,863) and in further view of Campbell *et al.* (US Patent No. 4,540,357).

Terhune ('741) in view of Sloniewsky *et al.* ('863) teaches the basic claimed process as described above.

Regarding claims 7, 9, 11 and 13, Terhune ('741) in view of Sloniewsky *et al.* ('863) do not teach a waste pocket for accommodating excess elastomeric (rubber) material. Campbell *et al.* ('357) teach a process for making a belt including, providing a mold having nub cavities (23) for accommodating excess elastomeric material (see col. 5, lines 48-64). Therefore, it would have been obvious for one of ordinary skill in the art to provide the nub cavities taught by Campbell *et al.* ('357) to the mold in the process of Terhune ('741) in view of Sloniewsky *et al.* ('863) in order to accommodate excess elastomeric material because of known advantages such as reduced costs by eliminating a finishing operation, hence providing for an improved process.

In regard to claims 14-16, although the process of Terhune ('741) in view of Sloniewsky *et al.* ('863) and in further view of Campbell *et al.* ('357) does not teach a finishing (deflashing) operation such as, grinding or milling, finishing a molded object is well known. Therefore, it would have been obvious for one of ordinary skill in the art to provide a finishing operation such as, grinding or milling, in the process of Terhune ('741) in view of Sloniewsky *et al.* ('863) and in further view of Campbell *et al.* ('357) because of known advantages such improved aesthetics and dimensional tolerances, hence providing for an improved product.

*Response to Arguments*

13. Applicants' remarks filed September 12, 2006 have been considered.
14. Applicants argue that the art of record does not teach or suggest, either alone or in combination, a molding process including providing a first and second planar mold half. However, this argument is drawn to a newly presented claim limitation not previously presented that has been rejected in this Office Action as set forth above.
15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 1732

*Conclusion*

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefan Staicovici, Ph.D. whose telephone number is (571) 272-1208. The examiner can normally be reached on Monday-Friday 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson, can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Stefan Staicovici, PhD



Primary Examiner

12/06

AU 1732

November 25, 2006